

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

SHAWN ROSS, Plaintiff, vs. WARDEN DARREN YOUNG and ATTORNEY GENERAL FOR THE STATE OF SOUTH DAKOTA, Defendants.	4:20-CV-04007-RAL ORDER DIRECTING PAYMENT OF \$5 FEE AND THEREAFTER DIRECTING SERVICE AND REQUIRING RESPONSE AND DENYING MOTION TO APPOINT COUNSEL
--	---

Plaintiff Shawn Ross has filed a petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus. Doc. 1. Ross moved for leave to proceed without prepayment of fees. Doc. 3. The Court found that Ross was indigent and granted his motion for leave to proceed in forma pauperis. Doc. 6. The Court found that Ross had the financial wherewithal to pay the \$5 filing fee and stated that once Ross paid that fee, service on defendants may occur without Ross having to pay a process server. Id. As of October 22, 2020, Ross has not paid the \$5.00 filing fee.

Ross filed a Motion to Appoint Counsel. Doc. 8. “A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.” Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998). In determining whether to appoint counsel to a pro se litigant, the Court considers the complexity of the case, the ability of the litigant to investigate the facts, the existence of conflicting testimony, and the litigant’s ability to present his claims. Id. At this time, Ross’s claims do not appear to be too complex, and Ross is able to investigate the facts and present his claims adequately.

Therefore, it is hereby

ORDERED that Ross pay to the Clerk of Court the \$5 filing fee by Thursday, November 12, 2020. If Ross does not comply by the date, his petition will be dismissed without prejudice for failure to prosecute. It is further

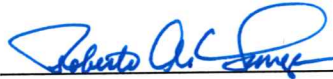
ORDERED that the Clerk of Court, upon receipt of the \$5 filing fee, arrange to serve a copy of all pleadings of record and this Order on Warden Darren Young and the Attorney General of the State of South Dakota. It is further

ORDERED that the Defendants file an answer, and if they so choose, a motion to dismiss and memorandum, within thirty days of service of the pleadings. It is finally

ORDERED that Ross's motion to appoint counsel, Doc. 8, is denied.

DATED October 22nd, 2020.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE